

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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E.ON AG, E.ON ZWÖLFTE VERWALTUNGS	:	Electronically Filed
GmbH and BKB AG,	:	
	:	No. 06 Civ. 8720 (DLC)
Plaintiffs,	:	
	:	ECF Case
v.	:	
	:	
ACCIONA, S.A. and FINANZAS DOS, S.A.,	:	
	:	
Defendants.	:	
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DECLARATION OF SCOTT B. LUFTGLASS

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

SCOTT B. LUFTGLASS, pursuant to 28 U.S.C. § 1746, declares as follows:

1. I am an associate at the law firm of Wachtell, Lipton, Rosen & Katz, counsel for the defendants named in the Complaint.
2. Annexed hereto as Exhibit 1 is a true and correct copy of Amendment No. 3 to Acciona, S.A.'s Schedule 13D, as filed with the Securities and Exchange Commission on November 7, 2006.
3. Annexed hereto as Exhibit 2 is a true and correct copy of Joao Lima and Paul Tobin, Acciona Acquires 10% Stake in Takeover Target Endesa, Bloomberg, Sept. 25, 2006.
4. Annexed hereto as Exhibit 3 is a true and correct copy of Juan Navarro and Anshuman Daga, Acciona Grabs 10 pct of Endesa in Takeover Battle, Reuters, Sept. 25, 2006.

5. Annexed hereto as Exhibit 4 is a true and correct copy of Harold Heckle, Spanish Energy Company Acciona Makes Bid for 10 Percent of Endesa, Associated Press Fin. Wire, Sept. 25, 2006.

6. Annexed hereto as Exhibit 5 is a true and correct copy of Paul Tobin and Joao Lima, Endesa Shares May Rise After Acciona Stake, Takeover Offers, Bloomberg, Sept. 25, 2006.

7. Annexed hereto as Exhibit 6 is a true and correct copy of Spanish Group Acciona Buys 10 Percent of Endesa, Agence France Presse, Sept. 25, 2006.

8. Annexed hereto as Exhibit 7 is a true and correct copy of Acciona Acquires 10 pct of Endesa, Doesn't Rule Out Raising Stake, AFX Int'l Focus, Sept. 25, 2006.

9. Annexed hereto as Exhibit 8 is a true and correct copy of Mark Mulligan, Acciona Amasses Holding of 10% in Endesa, FT.com (Financial Times), Sept. 25, 2006.

10. Annexed hereto as Exhibit 9 is a true and correct copy of Christopher Bjork and Michael Wang, Acciona Gate-Crashes Endesa Bid War With 10% Stake Buy, Dow Jones Int'l News, Sept. 25, 2006.

11. Annexed hereto as Exhibit 10 is a true and correct copy of Keith Johnson, Acciona Buys 10% of Endesa --- Purchase of Stake for About \$4.3 Billion Blurs Takeover Fight, Wall St. J. Europe, Sept. 26, 2006.

12. Annexed hereto as Exhibit 11 is a true and correct copy of Spanish Acciona Buys 10% in Endesa; EU Rules in E.ON's Favour, European Daily Elec. Mkts., Sept. 26, 2006.

13. Annexed hereto as Exhibit 12 is a true and correct copy of Graham Keeley, Spanish Bid to Block Energy Takeover; Building Group Acciona Buys Stake in Endesa in Apparent Attempt to Frustrate Germany's E.ON, The Independent (London), Sept. 26, 2006.

14. Annexed hereto as Exhibit 13 is a true and correct copy of Matthew Hall, Acciona Acquires 10% in Endesa, May Look to Block E.ON Bid, Global Insight, Sept. 26, 2006.

15. Annexed hereto as Exhibit 14 is a true and correct copy of Acciona Acquires 10% of Endesa, Datamonitor NewsWire, Sept. 26, 2006.

16. Annexed hereto as Exhibit 15 is a true and correct copy of Acciona To Request Regulatory OK To Increase Endesa Stake, Dow Jones Int'l News, Sept. 26, 2006.

17. Annexed hereto as Exhibit 16 is a true and correct copy of Acciona, Endesa Share Trading Suspended in Madrid, AFX Int'l Focus, Sept. 26, 2006.

18. Annexed hereto as Exhibit 17 is a true and correct copy of Acciona Sees Clearance for Further Endesa Stakebuild Within 4 Wks, AFX.com, Sept. 26, 2006.

19. Annexed hereto as Exhibit 18 is a true and correct copy of Santiago Perez, Acciona: No Prior Talks With E.ON, Gas Natural On Endesa, Dow Jones Int'l News, Sept. 26, 2006.

20. Annexed hereto as Exhibit 19 is a true and correct copy of Elisabeth O'Leary and Carlos Ruano, Acciona Grabs Endesa Stake, Electric Battle Heats Up, Reuters News, Sept. 26, 2006.

21. Annexed hereto as Exhibit 20 is a true and correct copy of Steve Goldstein, Endesa Rallies as Acciona Amasses 10% Stake, MarketWatch, Sept. 26, 2006.

22. Annexed hereto as Exhibit 21 is a true and correct copy of Keith Johnson, WSJ: Acciona Gets Guarantees for About 18% of Endesa, Dow Jones Int'l News, Sept. 26, 2006.

23. Annexed hereto as Exhibit 22 is a true and correct copy of Jonathan House and Santiago Perez, Spain Solbes: Acciona Endesa Stake Buy Purely Co. Matter, Dow Jones Int'l News, Sept. 26, 2006.

24. Annexed hereto as Exhibit 23 is a true and correct copy of Joao Lima and Paul Tobin, Acciona May Double Endesa Stake, Threaten E.ON's Bid, Bloomberg, Sept. 26, 2006.

25. Annexed hereto as Exhibit 24 is a true and correct copy of E.ON Maintains Interest in Endesa Despite Acciona Move, Agence France Presse, Sept. 26, 2006.

26. Annexed hereto as Exhibit 25 is a true and correct copy of Carlos Ruano, Acciona's Endesa Buy Seen as First Step in New Push, Reuters News, Sept. 26, 2006.

27. Annexed hereto as Exhibit 26 is a true and correct copy of E.ON's Bid for Endesa Could be Thwarted by Acciona Stake Acquisition, AFX Int'l Focus, Sept. 26, 2006.

28. Annexed hereto as Exhibit 27 is a true and correct copy of Andres Cala, Acciona Seeks Approval to Buy About 25% of Endesa, Dow Jones Int'l News, Sept. 26, 2006.

29. Annexed hereto as Exhibit 28 is a true and correct copy of Aoife White, European Union Orders Spain to Remove Roadblocks to E.ON's Bid for Endesa, Associated Press, Sept. 26, 2006.

30. Annexed hereto as Exhibit 29 is a true and correct copy of Spain's Acciona Seeks to Raise its Endesa Stake to Just Under 25 Percent, Associated Press Fin. Wire, Sept. 26, 2006.

31. Annexed hereto as Exhibit 30 is a true and correct copy of Matt Moore & Aoife White, German Utility E.ON Raises Bid for Spain's Endesa by 38 Percent, Associated Press, Sept. 26, 2006.

32. Annexed hereto as Exhibit 31 is a true and correct copy of Joao Lima, Acciona Says Acting Alone in € 3.4 Billion Endesa Investment, Bloomberg, Sept. 26, 2006.

33. Annexed hereto as Exhibit 32 is a true and correct copy of Keith Johnson, E.ON Increases Bid for Spanish Utility Endesa, Wall St. J., Sept. 27, 2006.

34. Annexed hereto as Exhibit 33 is a true and correct copy of Keith Johnson and Jason Singer, Spain's Electricity Battle Heats Up, Wall St. J. Asia, Sept. 27, 2006.

35. Annexed hereto as Exhibit 34 is a true and correct copy of Andrew Bulkeley and Renee Cordes, Acciona Builds Endesa Stake, The Deal, Sept. 27, 2006.

36. Annexed hereto as Exhibit 35 is a true and correct copy of Thomas Catan, Endesa Wrangling Tests EU Resolve on Markets, The Times (London), Sept. 27, 2006.

37. Annexed hereto as Exhibit 36 is a true and correct copy of Endesa Extra Time, World Gas Intelligence, Sept. 27, 2006.

38. Annexed hereto as Exhibit 37 is a true and correct copy of Mark Smedley, E.ON Faces New Challenge in Endesa Bid, Int'l Oil Daily, Sept. 27, 2006.

39. Annexed hereto as Exhibit 38 is a true and correct copy of Andres Cala, E.ON Ahead in Race for Endesa, But Much Uncertain, Dow Jones Int'l News, Sept. 27, 2006.

40. Annexed hereto as Exhibit 39 is a true and correct copy of Mantik Kusjanto, E.ON Mulls Endesa Talks with Spain's Acciona, Reuters News, Sept. 27, 2006.

41. Annexed hereto as Exhibit 40 is a true and correct copy of Hamish Risk and John Glover, Endesa May Add Debt, Hurting Rating, in E.ON Takeover, Bloomberg, Sept. 27, 2006.

42. Annexed hereto as Exhibit 41 is a true and correct copy of Acciona Says Open to Shareholder Talks on Endesa, Reuters News, Sept. 27, 2006.

43. Annexed hereto as Exhibit 42 is a true and correct copy of E.ON AG Announces Intention to Increase the Offer Price for Endesa to 35 Euros per Share – Conference Call, FD (Fair Disclosure) Wire, Sept. 27, 2006.

44. Annexed hereto as Exhibit 43 is a true and correct copy of Keith Johnson and Jason Singer, E.ON's Sweetened Offer May Lead to Rush of Deals --- Spain Energy Market Opens as Endesa Bid Likely to Get Approval, Wall St. J. Europe, Sept. 28, 2006.

45. Annexed hereto as Exhibit 44 is a true and correct copy of Spain's Acciona Increases Endesa Share to 15%, European Daily Elec. Mkts., Sept. 28, 2006.

46. Annexed hereto as Exhibit 45 is a true and correct copy of Roberto Casado et al., Acciona Keeps Plan to Increase Endesa Stake to up to 24.9%, Expansion, Sept. 28, 2006.

47. Annexed hereto as Exhibit 46 is a true and correct copy of Jane Barrett, E.ON Still Faces Obstacle Course to Buy Endesa, Reuters News, Sept. 28, 2006.

48. Annexed hereto as Exhibit 47 is a true and correct copy of E.ON Opens Doors to Negotiations with Acciona, El Pais, Sept. 28, 2006.

49. Annexed hereto as Exhibit 48 is a true and correct copy of Keith Johnson and Jason Singer, E.ON Closes In on Endesa Deal --- Spanish Takeover Could Trigger Wave of European Energy Mergers, Wall St. J., Sept. 28, 2006.

50. Annexed hereto as Exhibit 49 is a true and correct copy of Acciona Seeks Luring Santander Into Endesa, Dow Jones Int'l News, Sept. 29, 2006.

51. Annexed hereto as Exhibit 50 is a true and correct copy of Keith Johnson and Jason Singer, Likely E.ON, Endesa Pact Could Propel Wave of Cross-Border Deals, Wall St. J. Asia, Sept. 29, 2006.

52. Annexed hereto as Exhibit 51 is a true and correct copy of Acciona Chairman in Talks with SCH Over Taking Stake in Endesa, AFX.com, Sept. 29, 2006.

53. Annexed hereto as Exhibit 52 is a true and correct copy of Javier Marquina and Paul Tobin, Santander Holds 5% of Endesa on Behalf of Acciona, Bloomberg, Sept. 29, 2006.

54. Annexed hereto as Exhibit 53 is a true and correct copy of Thomas Mulier, Acciona Asks Santander to Take Stake in Endesa, El Mundo Says, Bloomberg, Sept. 29, 2006.

55. Annexed hereto as Exhibit 54 is a true and correct copy of Graham Keeley, Spanish Ask Santander to Join Bid Battle for Endesa, The Times (London), Sept. 30, 2006.

56. Annexed hereto as Exhibit 55 is a true and correct copy of Ben Sills, Acciona Controls 20% of Endesa Shares, El Economista Reports, Bloomberg, Sept. 30, 2006.

57. Annexed hereto as Exhibit 56 is a true and correct copy of Richard Orange, Happy Ending a Long Way Off in Story of E.ON's Fight for Endesa, The Business, Oct. 1, 2006.

58. Annexed hereto as Exhibit 57 is a true and correct copy of Andrew Bulkeley, Acciona to Thwart E.ON-Endesa Merger?, The Deal, Oct. 2, 2006.

59. Annexed hereto as Exhibit 58 is a true and correct copy of Acciona to Meet E.ON on Endesa, Sees Plans Varying, Reuters News, Oct. 2, 2006.

60. Annexed hereto as Exhibit 59 is a true and correct copy of Joao Lima, Acciona to Start Talks with E.ON Over Endesa Stake, Cinco Says, Bloomberg, Oct. 3, 2006.

61. Annexed hereto as Exhibit 60 is a true and correct copy of Joao Lima, Acciona Talking with E.ON, Other Investors on Bid-Target Endesa, Bloomberg, Oct. 3, 2006.

62. Annexed hereto as Exhibit 61 is a true and correct copy of Kristian Rix, Spain Delays Considering Acciona Request to Boost Endesa Stake, Bloomberg, Oct. 5, 2006.

63. Annexed hereto as Exhibit 62 is a true and correct copy of Joe Ortiz, Endesa Looks for Best Shareholder Deal—Chairman, Reuters News, Oct. 5, 2006.

64. Annexed hereto as Exhibit 63 is a true and correct copy of Joao Lima, Acciona May Want Endesa Chairman to Continue, Ecomonista Says, Bloomberg, Oct. 7, 2006.

65. Annexed hereto as Exhibit 64 is a true and correct copy of Joao Lima, Acciona Raises Stake in Endesa to 16.6%, Cinco Dias Reports, Bloomberg, Oct. 11, 2006.

66. Annexed hereto as Exhibit 65 is a true and correct copy of Acciona Buys More Endesa Shares From Investment Funds; Has 16.6 pct, AFX Int'l Focus, Oct. 11, 2006.

67. Annexed hereto as Exhibit 66 is a true and correct copy of Thomas Mulier, Endesa Tells Acciona It Should Make Public Bid, El Mundo Says, Bloomberg, Oct. 12, 2006.

68. Annexed hereto as Exhibit 67 is a true and correct copy of an E.ON press release, E.ON Completes Record-Breaking €37.1Bn Loan, dated Oct. 23, 2006.

69. Annexed hereto as Exhibit 68 is a true and correct copy of a certified English translation of Carlos Segovia, Santander Reconciles Purchases for Acciona with Financing their Rival E.ON and Being the Agent of their POA, El Mundo, Oct. 24, 2006.

70. Annexed hereto as Exhibit 69 is a true and correct copy of a certified English translation of Eduardo Segovia, E.ON Asks Funds at What Price Would They Sell Their “Endesas” and They Respond: Above 38, El Confidencial, Oct. 26, 2006.

71. Annexed hereto as Exhibit 70 is a true and correct copy of Keith Johnson, Gas Natural Claim Advances --- Judge Tells Endesa, E.ON to Hand Over Documents in Case, Wall St. J. Europe, Nov. 3, 2006.

72. Annexed hereto as Exhibit 71 is a true and correct copy of a certified English translation of the Resolutions of the Nov. 3, 2003 Meeting of the Board of Directors of the Comisión Nacional de la Energía.

73. Annexed hereto as Exhibit 72 is a true and correct copy of a certified English translation of a press release issued by the Spanish Ministry of Industry on Nov. 4, 2006.

74. Annexed hereto as Exhibit 73 is a true and correct copy of an E.ON press release, E.ON Accepts Decision by Spanish Industry Ministry on CNE Conditions, dated Nov. 6, 2006.

75. Annexed hereto as Exhibit 74 is a true and correct copy of Jan Hromadko, E.ON Accepts Eased Conditions on Endesa Bid, Dow Jones Int’l News, Nov. 6, 2006.

76. Annexed hereto as Exhibit 75 is a true and correct copy of Jonathan House, Spain CNMV Pledges Rapid OK for E.ON’s Bid for Endesa, Dow Jones Int’l News, Nov. 8, 2006.

77. Annexed hereto as Exhibit 76 is a true and correct copy of Charles Penty and Paul Tobin, Spain Says Endesa Bids Remain Frozen Over Court Cases, Bloomberg, Nov. 8, 2006.

78. Annexed hereto as Exhibit 77 is a true and correct copy of Alfred Kueppers, E.ON Still Wants to Buy Acciona's Shares in Endesa But Other Options Possible, AFX.com, Nov. 8, 2006.


79. Annexed hereto as Exhibit 78 is a true and correct copy of the order in In re Nat'l Australia Bank Sec. Litig., 03 Civ. 6537 (S.D.N.Y. Oct. 25, 2006).

80. Annexed hereto as Exhibit 79 is a true and correct copy of an excerpt from, Endesa S.A.'s Form 20-F, as filed with the Securities and Exchange Commission on May 17, 2006.

81. Annexed hereto as Exhibit 80 is a true and correct copy of a certified English translation of an order of the Mercantile Court in Barcelona, dated Oct. 25, 2006.

82. Annexed hereto as Exhibit 81 is a true and correct copy of the historical stock prices of Endesa, S.A. from September 1, 2006 to November 9, 2006, downloaded from <http://finance.yahoo.com> on November 10, 2006.

I declare under penalty of perjury that the foregoing is true and correct. Executed on November 10, 2006.



Scott B. Luftglass